

DEC 12 2019

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

U.S. District Court  
Western District of N.C.

MISC. NO.

1:15 -mc- 8

IN RE: ALLOCATION OF CRIMINAL AND CIVIL CASES FROM  
THE ASHEVILLE AND BRYSON CITY DIVISIONS

ORDER

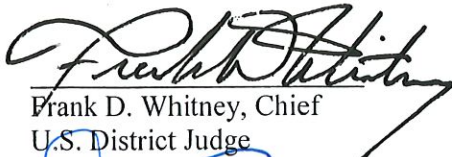
The following case assignment allocations will be applied in the Asheville Division (which includes the former Shelby Division) and the Bryson City Division. This Order supersedes all other prior orders as they may relate to the Asheville and Bryson City Divisions, except as referred to herein. Unless specifically stated otherwise, these case assignment allocations are effective *January 1, 2020*.

1. The criminal cases in the Asheville and Bryson City Divisions shall be assigned to Judge Reidinger and Judge Cogburn. The docket shall be divided, as nearly as is practical, such that 4/5 (80%) of the defendants are assigned to Judge Reidinger and 1/5 (20%) are assigned to Judge Cogburn, provided that all defendants in the same indictment and in related cases should be assigned to the same judge unless such is impractical. The Clerk is authorized to make such adjustments in the docket as necessary to effectuate this provision.
2. Nothing in this Order shall be construed to mean that a case or a defendant shall be reassigned to a different judge as a result of a superseding indictment. Any such case in which a superseding indictment is issued shall remain with the judge to whom the case was originally assigned.
3. Any criminal case filed in the Asheville Division in which Judge Reidinger must recuse himself due to a conflict shall be assigned first to Judge Cogburn, then to Judge Bell, then to Judge Conrad, and then to Chief Judge Whitney.
4. Any criminal case filed in the Asheville Division in which Judge Cogburn must recuse himself due to a conflict shall be assigned first to Judge Reidinger, then to Judge Bell, and then Judge Conrad, and then to Judge Whitney.

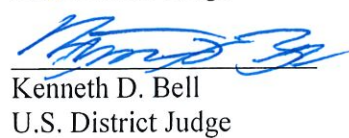
5. Judge Reidinger shall be assigned  $\frac{3}{4}$  of all civil cases and Judge Cogburn  $\frac{1}{4}$  of all civil cases from the Asheville and Bryson City Divisions. This provision shall not apply or pertain to death penalty cases, prisoner cases, asbestos cases and social security cases which are the subject of a separate order or other provisions herein. All asbestos cases shall be assigned to Judge Reidinger.
6. Any civil case in which Judge Reidinger has a conflict shall be reassigned in the following order taking into consideration potential conflicts: first to Judge Cogburn, then to Senior Judge Mullen, then to Judge Bell, then to Judge Conrad, and then to Judge Whitney.
7. Any civil case in which Judge Cogburn has a conflict shall be reassigned in the following order taking into consideration potential conflicts: first to Judge Reidinger, then to Senior Judge Mullen, then to Judge Bell, then to Judge Conrad, and then to Judge Whitney.
8. Judge Reidinger shall continue to be assigned all "prisoner cases" (cases in which the plaintiff is a former criminal defendant which case pertains to his/her conviction, including those alleging claims pursuant to 28 U.S.C. 2255, 2241, 1651, audita querella or coram nobis, but not those identified below in Paragraph I 1) in which he was the presiding judge in the underlying criminal case. He shall also be assigned all such prisoner cases in which Judge Thornburg was the presiding judge in the underlying criminal case.
9. Any case that is remanded for further proceedings pursuant to a mandate of the U.S. Court of Appeals for the Fourth Circuit in which Judge Thornburg was the presiding judge shall be assigned to Judge Reidinger.
10. Chief Judge Whitney shall be assigned all prisoner pro se cases filed pursuant to 42 U.S.C. 1983 and 28 U.S.C. 2254 (non-death penalty cases).
11. All miscellaneous matters from the Asheville and Bryson City Divisions shall be assigned to Judge Reidinger and Judge Cogburn on an equal basis, to the extent practical.
12. Non-consent civil cases are referred to Magistrate Judge Metcalf for all pretrial proceedings in accordance with Judge Reidinger's and Judge Cogburn's referral orders apart from all social security cases which are addressed in a separate order. Consent cases will be handled by Magistrate Judge Metcalf for all purposes and in all respects. Pretrial matters in criminal cases are referred to Magistrate Judge Metcalf.

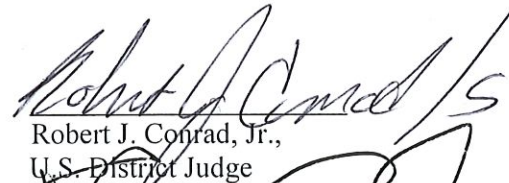
The Clerk is directed to serve copies of this Order to all district court judges, all magistrate judges, the United States Attorney, the Federal Defender's Office; the Chief United States Probation Officer, the United States Marshal, all deputy clerks and all court reporters.

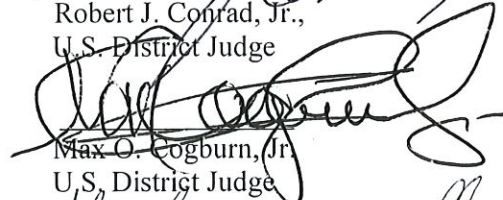
SO ORDERED THIS 12<sup>th</sup> DAY OF December, 2019.

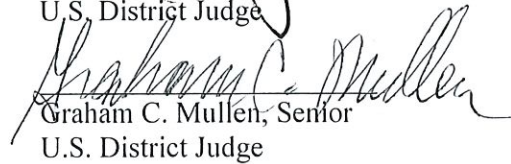
  
Frank D. Whitney, Chief  
U.S. District Judge

  
Martin Reidinger  
U.S. District Judge

  
Kenneth D. Bell  
U.S. District Judge

  
Robert J. Conrad, Jr.,  
U.S. District Judge

  
Max O. Cogburn, Jr.  
U.S. District Judge

  
Graham C. Mullen, Senior  
U.S. District Judge